

CENTER FOR DISABILITY ACCESS  
Raymond Ballister Jr., Esq., SBN 111282  
Russell Handy, Esq., SBN 195058  
Amanda Seabock, Esq., SBN 289900  
Zachary Best, Esq., SBN 166035  
Mail: 8033 Linda Vista Road, Suite 200  
San Diego, CA 92111  
(858) 375-7385; (888) 422-5191 fax  
amandas@potterhandy.com  
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Andres Gomez,**

Plaintiff,

v.

**Tin Barn Vineyards, LLC, a  
California Limited Liability  
Company**

Defendant.

**Case No.**

**Complaint for Damages and  
Injunctive Relief for Violations  
of: American's With Disabilities  
Act; Unruh Civil Rights Act**

**NOT RELATING TO A  
CONSTRUCTION-RELATED  
BARRIER AS DEFINED IN CAL.  
CIV. CODE § 55.3**

Plaintiff Andres Gomez ("Plaintiff") complains of Tin Barn Vineyards, LLC, a California Limited Liability Company; ("Defendant"), and alleges as follows:

**PARTIES:**

1. Plaintiff is a visually-impaired individual and a member of a protected class of persons under the Americans with Disabilities Act. Plaintiff Talkback or similar software to navigate websites and applications on electronic devices.

1 Plaintiff is legally blind<sup>1</sup> and cannot use an electronic device without  
2 assistance of screen-reader software (“SRS”).

3 2. Defendant Tin Barn Vineyards, LLC, a California Limited Liability  
4 Company (“Tin Barn Vineyards, LLC”), owned or operated Tin Barn  
5 Vineyards & Winery Sonoma Valley located in Sonoma County, California, in  
6 March 2021 and August 2021.

7 3. Defendant Tin Barn Vineyards, LLC owns or operates Tin Barn  
8 Vineyards & Winery Sonoma Valley located in Sonoma County, California,  
9 currently.

10 4. Defendant Tin Barn Vineyards, LLC owned or operated Tin Barn  
11 Vineyards & Winery Sonoma Valley website, with a root domain of:  
12 <https://www.tinbarnvineyards.com/>, and all related domains, sub-domains  
13 and/or content contained within it, (“Website”) in March 2021 and August  
14 2021.

15 5. Defendant Tin Barn Vineyards, LLC owns or operates Tin Barn  
16 Vineyards & Winery Sonoma Valley website currently.

17 6. Plaintiff does not know the true names of Defendants, their business  
18 capacities, their ownership connection to the property and business, or their  
19 relative responsibilities in causing the access violations herein complained of,  
20 and alleges a joint venture and common enterprise by all such Defendants.  
21 Plaintiff is informed and believes that each of the Defendants herein, is  
22 responsible in some capacity for the events herein alleged or is a necessary  
23 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
24 the true names, capacities, connections, and responsibilities of the Defendants  
25

---

26 <sup>1</sup> Plaintiff uses the terms “visually-impaired” or “blind” interchangeably to  
27 refer to individuals, including himself, who meet the legal definition of  
28 blindness. (visual acuity of 20/200 or worse.) Some individuals who meet  
these criteria have no vision, others have limited vision.

1 are ascertained.

2  
3 **JURISDICTION & VENUE:**

4  
5 7. The Court has subject matter jurisdiction over the action pursuant to 28  
6 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
7 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq. (“ADA”)

8 8. This court has supplemental jurisdiction over Plaintiff’s non-federal  
9 claims pursuant to 28 U.S.C. § 1367 because Plaintiff’s Unruh claims are  
10 formed from the same case and/or controversy and are related to Plaintiff’s  
11 ADA claims. A violation of the ADA is a violation of Unruh. (Cal. Code §51(f).

12 9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b). Defendant  
13 is subject to personal jurisdiction in this District due to its business contacts  
14 with the District, and a substantial portion of the complained of conduct  
15 occurred in this District.

16  
17 **FACTUAL ALLEGATIONS:**

18  
19 10. Plaintiff is a legally blind person and a member of a protected class  
20 under the ADA. Plaintiff is proficient with and uses SRS to access the internet  
21 and read internet content on computers and mobile devices.

22 11. Plaintiff cannot use a computer without the assistance of screen reader  
23 software. (“SRS”).

24 12. Tin Barn Vineyards, LLC operates privileges, goods or services out of a  
25 physical location in California. These services are open to the public, places of  
26 public accommodation, and business establishments.

27 13. The Website is a nexus between Tin Barn Vineyards, LLC customers  
28 and the terrestrial based privileges, goods or services offered by Tin Barn

1 Vineyards, LLC.

2 14. Tin Barn Vineyards, LLC offers websites and digital booking as some of  
3 the facilities, privileges, and advantages offered by Defendants to patrons of  
4 the Tin Barn Vineyards, LLC in connection with their patronage at the Tin  
5 Barn Vineyards, LLC.

6 15. Among the services offered include: details about the wine and the Tin  
7 Barn Vineyards, LLC itself, location and contact information; Tin Barn  
8 Vineyards, LLC policies; information about wine, deals and promotions  
9 without any ambiguity as to the amenities that would be available to the  
10 patron.

11 16. Plaintiff was a prospective customer who wished to access Defendant's  
12 goods and services of the Tin Barn Vineyards, LLC.

13 17. Plaintiff visited the Website in March 2021 and August 2021 in search  
14 of a winery/wine vineyard to potentially visit this location to purchase wine or  
15 do some wine tasting or potentially make my own wine since we were in the  
16 California area and potentially wanted to go to Northern California for this  
17 experience since I have family who lives in Northern California.

18 18. When Plaintiff attempted to navigate the Website, Plaintiff encountered  
19 numerous accessibility design faults that prevented him from navigating the  
20 site successfully using SRS. Investigation into his experience revealed barriers,  
21 including, but not limited to:

- 22 a. Images on the website lack a text equivalent readable by  
23 SRS.
- 24 b. The website contains form elements that are not identified  
25 with functional text readable by SRS.
- 26 c. Images on the website lack a text equivalent readable by  
27 SRS.
- 28 d. The visualization of the webpage contains impermissibly

1 low contrast enabling differentiation of background and  
2 foreground elements.

3 19. These inaccessible elements rendered the ostensibly “accessible”  
4 elements inaccessible as a result of difficulty and confusion navigating the  
5 numerous inaccessible elements.

6 20. Currently, the defendants either fail to provide an accessible website or  
7 Defendants have failed to maintain in working and useable conditions those  
8 website features required to provide ready access to persons with disabilities.

9 21. Despite multiple attempts to access the Website using Plaintiff’s  
10 computer and mobile device, Plaintiff has been denied the full use and  
11 enjoyment of the facilities, goods and services offered by Defendants as a  
12 result of the accessibility barriers on the Website.

13 22. Plaintiff personally encountered accessibility barriers and has actual  
14 knowledge of them.

15 23. By failing to provide an accessible website, the defendants denied  
16 Plaintiff full and equal access to the facilities privileges or advantages offered  
17 to their customers.

18 24. Plaintiff has been deterred from returning to the Website as a result of  
19 these prior experiences.

20 25. The failure to provide accessible facilities created difficulty and  
21 discomfort for the Plaintiff.

22 26. If the website had been constructed equally accessible to all individuals,  
23 Plaintiff would have been able to navigate the Website and find information on  
24 wine.

25 27. Additionally, Plaintiff is a tester in this litigation and seeks future  
26 compliance with all federal and state laws. Plaintiff will return to the Website  
27 to avail himself of its goods and/or services and to determine compliance with  
28 the disability access laws once it is represented to him that the Tin Barn

1 Vineyards, LLC and Website are accessible.

2 28. Plaintiff is currently deterred from doing so because of Plaintiff's  
3 knowledge of the existing barriers and uncertainty about the existence of yet  
4 other barriers on the Website. If the barriers are not removed, Plaintiff will  
5 face unlawful and discriminatory barriers again.

6 29. The barriers identified above violate easily accessible, well-established  
7 industry standard guidelines for making websites accessible to people with  
8 visual-impairments that use SRS to access websites. Given the prevalence of  
9 websites that have implemented these standards and created accessible  
10 websites, it is readily achievable to construct an accessible website without  
11 undue burden on the Tin Barn Vineyards, LLC or a fundamental alteration of  
12 the purpose of the Website.

13 30. Compliance with W3C Web Content Accessibility Guidelines  
14 ("WCAG") 2.0 AA standards are a viable remedy for these deficiencies and a  
15 standard that has been adopted by California courts for website accessibility.

16 31. It's been established that failure to remove these inaccessible conditions  
17 violates the ADA and California law and requiring compliance with industry  
18 access standards is a remedy available to the plaintiff.

19 32. The Website was intentionally designed, and based on information and  
20 belief, it is the Defendants', policy and practice to deny Plaintiff access to the  
21 Website, and as a result, denies the goods and services that are otherwise  
22 available to patrons of the Tin Barn Vineyards, LLC.

23 33. Due to the failure to construct and operate the website in line with  
24 industry standards, Plaintiff has been denied equal access to Defendant's Tin  
25 Barn Vineyards, LLC and the various goods, services, privileges, opportunities  
26 and benefits offered to the public by the Tin Barn Vineyards, LLC.

27 34. Given the nature of the barriers and violations alleged herein, the  
28 plaintiff alleges, on information and belief, that there are other violations and

1 barriers on the website, and/or at the Tin Barn Vineyards, LLC, that relate to  
2 his disability. In addition to the barriers he personally encountered, Plaintiff  
3 intends to seek removal of all barriers on the Website that relate to his  
4 disability. See *Doran v. 7-Eleven* (9th Cir. 2008) 524 F.3d 1034 (holding that  
5 once a plaintiff encounters one barrier, they can sue to have all barriers that  
6 relate to their disability removed regardless of whether they personally  
7 encountered the barrier).

8 35. Plaintiff will amend the complaint, to provide further notice regarding  
9 the scope of the additional demanded remediation in the event additional  
10 barriers are uncovered through discovery. However, please be on notice that  
11 the plaintiff seeks to have all barriers related to his disability remedied.

12  
13  
14 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
15 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
16 Defendants.) (42 U.S.C. section 12101, et seq.)

17 36. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
18 again herein, the allegations contained in all prior paragraphs of this  
19 complaint. The Tin Barn Vineyards, LLC is a public accommodation with the  
20 definition of Title III of the ADA, 42 USC § 12181.

21 37. The website provided by the Defendant is a service, privilege or  
22 advantage and extension of Tin Barn Vineyards, LLC physical presence and  
23 terrestrial services.

24 38. When a business provides services such as a website, it must provide an  
25 accessible website.

26 39. Here, an accessible website has not been provided. A failure to provide  
27 an accessible website is unlawful discrimination against persons with  
28 disabilities.

40. Under the ADA, it is an act of discrimination to fail to ensure that the privileges, advantages, accommodations, facilities, goods and services of any place of public accommodation is offered on a full and equal basis by anyone who owns, leases, or operates a place of public accommodation. See: 42 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows: “A failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the accommodation would work a fundamental alteration of those services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).”

41. Here, the failure to ensure that the accessible facilities were available and ready to be used by the plaintiff is a violation of the law.

42. Pursuant to 42 U.S.C. § 12188 and the remedies, procedures and rights set forth and incorporated therein, Plaintiff requests relief as set forth below.

**II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ. Code § 51-53.)

43. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia, that persons with disabilities are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishment of every kind whatsoever within the jurisdiction of the State of California. Cal. Civ. Code § 51(b).

44. The Unruh Act provides that a violation of the ADA is a violation of the Unruh Act. Cal. Civ. Code § 51(f).

1 45. Defendants' acts and omissions, as herein alleged, have violated the  
2 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff's  
3 rights to full and equal use of the accommodations, advantages, facilities,  
4 privileges, or services offered.

5 46. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
6 discomfort or embarrassment for the plaintiff, the defendants are also each  
7 responsible for statutory damages, i.e., a civil penalty. Cal. Civ. Code §  
8 55.56(a)-(c).

9 47. Pursuant to 42 U.S.C. § 12188 and the remedies, procedures and rights  
10 set forth and incorporated therein, Plaintiff requests relief as set forth below.

11  
12 **PRAYER:**

13  
14 Wherefore, Plaintiff prays that this Court award damages and provide  
15 relief as follows:

16 1. A Declaratory Judgment that at the commencement of this action  
17 Defendants were in violation of the requirements of the ADA due to  
18 Defendants' failures to take action to ensure that its Website was fully  
19 accessible to and independently usable by blind and visually-impaired  
20 individuals.

21 2. For equitable nominal damages for violation of civil rights. See  
22 Uzuegbunam v. Preczewski, 141 S.Ct. 792 (2021) and any other equitable  
23 relief the Court finds appropriate.

24 3. Pursuant to 42 U.S.C § 12181, a preliminary and permanent injunction  
25 enjoining Defendants from violating the ADA with respect to its website.  
26  
27  
28

1 4. Damages under the Unruh Civil Rights Act § 51<sup>2</sup>, which provides for  
2 actual damages and a statutory minimum of \$4,000 for each offense.

3 5. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
4 to 42 U.S.C. § 12205; and Cal. Civ. Code § 52.

5  
6  
7 Dated: February 9, 2022

CENTER FOR DISABILITY ACCESS

8  
9 

10 By: \_\_\_\_\_

11 Amanda Seabock, Esq.  
12 Attorney for Plaintiff  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

26 \_\_\_\_\_  
27 <sup>2</sup> Note: the plaintiff is not invoking section 55 of the California Civil Code and  
28 is not seeking injunctive relief under the Disabled Persons Act at all.